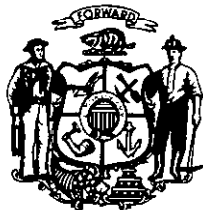


**BEFORE THE  
STATE OF WISCONSIN  
Division Of Hearings And Appeals**



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In the Matter of the Denial of a Permit to Erect an  
Outdoor Advertising Sign to be Located Along  
STH 13 in the Town of Saratoga, Wood County.

Case No.: 97-H-1048

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**FINAL DECISION**

On July 25, 1996, the Department of Transportation denied an application for a permit to erect an outdoor advertising sign to Adlee Construction. By letter dated August 21, 1996, Adlee Construction requested a hearing to review this decision. By letter dated June 25, 1997, the Department of Transportation forwarded this letter to the Division of Hearings and Appeals and asked that a hearing be scheduled in this matter. Pursuant to due notice, a hearing was held in Wisconsin Rapids, on September 16, 1997, before Mark J. Kaiser, Administrative Law Judge.

In accordance with secs 227.47 and 227.53(1)(c), Stats., the PARTIES to these proceedings are certified as follows:

Gordon Wipperfurth  
Adlee Construction  
8841 Highway 13 South  
Wisconsin Rapids, WI

Wisconsin Department of Transportation, by

Attorney Barbara F. Bird  
Office of General Counsel  
PO Box 7910  
Madison WI 53707-7910

The Administrative Law Judge issued a proposed decision on October 13, 1997. Gordon Wipperfurth filed comments objecting to the proposed decision on October 24, 1997. Mr. Wipperfurth objected to the proposed decision because it did not address the lawfulness of the Becker Sign Company sign. The Becker Sign Company was not a party and the status of the Becker Sign Company sign was not an issue in this case. The proposed decision properly did not make a finding with respect to the status of the Becker Company sign. The proposed decision is adopted as the final decision in this matter.

### Findings of Fact

The Administrator finds:

1. By application dated July 1, 1996, Gordon Wipperfurth, d/b/a Adlee Construction, applied for a permit to erect an on-premise sign on property located at 8841 Highway 13 South, Wisconsin Rapids. The property is located along the east side of Highway 13. The proposed sign would contain the message "Adlee Construction" on both the north and south face. The dimensions of the proposed sign are five feet high and eight feet wide.
2. Highway 13 is a federal aid primary highway
3. On June 30, 1996, the Becker Sign Company filed an application for a two-faced, off-premise sign along the east side of Highway 13. The site of the proposed sign is fifteen feet south of the site of Adlee Construction's proposed sign.
4. The Department of Transportation has a policy of processing applications for sign permits in the order they are received. A permit for the Becker Sign Company sign was issued on July 15, 1996, and the erection of the sign was completed on August 16, 1996.
5. After the permit for the Becker Sign Company sign was issued, Department of Transportation employees determined that the proposed Adlee Construction sign would block between fifteen and twenty percent of the north face of the Becker Sign Company sign. For this reason, the application of Adlee Construction was denied by letter dated July 25, 1996.
6. Since the denial of the application filed by Adlee Construction, the Department of Transportation has discovered information indicating the Becker Sign Company sign may not be permissible at its current location. However, unless and until the permit for the Becker Sign Company sign is revoked, that sign must be treated as a lawfully permitted sign.

### Conclusions of Law

The Administrator concludes:

1. Pursuant to sec. TRANS 201.06(2), Wis. Adm. Code, a permit may not be issued for an otherwise eligible sign location if the erection of a sign at that location would obstruct motorists' view of another lawfully erected sign.
2. Pursuant to secs. 84.30(18) and 227.43(1)(bg), Stats., the Division of Hearings and Appeals has the authority to issue the following order.

Order

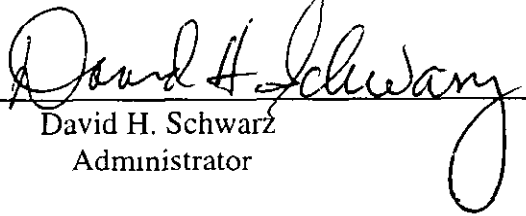
The Administrator orders

The Department of Transportation's denial of the application for an on-premise sign permit filed by Adlee Construction is affirmed.

Dated at Madison, Wisconsin on November 4, 1997.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By

  
David H. Schwarz  
Administrator